STATE OF MICHIGAN

COURT OF APPEALS

UNPUBLISHED
November 21, 2013

In the Matter of J. VASQUEZ Minor,

No. 314456
Ingham Circuit Court
Family Division
LC No. 12-000801-NA

Before: METER, P.J., and SERVITTO and RIORDAN, JJ.

PER CURIAM.

Respondent appeals as of right the order terminating her parental rights to her minor son under MCL 712A.19b(3)(g) (failure to provide proper care or custody) and (j) (reasonable likelihood of harm). We affirm.

I. FACTUAL BACKGROUND

Petitioner filed a petition requesting removal of the minor child from respondent's care and termination of her parental rights. Petitioner alleged that respondent had an extensive history with the Department of Human Services (DHS).[1]

In the instant case, petitioner claimed that respondent had been diagnosed with bipolar disorder, was becoming increasingly unstable, and it was contrary to the welfare of the minor to remain with respondent. Petitioner claimed that respondent told a Michigan Works worker that she had two personalities, one that cried and another that acted violently, and that respondent laughed about poisoning people with a mixture of bleach and fuel-injection cleaner. Additionally, respondent told a Child Protective Services (CPS) worker that while living in Texas she was involved in child protective proceedings because it was possible that she was bipolar.

[1] In 1995, one of respondent's children was found with a puncture wound on his thigh and a cut on his abdomen. He and respondent stated that one night respondent came into his room with a butcher knife, woke him up, and stated: "You're not going to kill me first, I'm going to kill you . . . Do you want it fast or slow?" Respondent's parental rights to that child and two other children were terminated in 2002. These children are not at issue in this appeal.

The trial court authorized the petition and took jurisdiction over the child. At the disposition hearing, evidence was presented regarding the extensive services offered to respondent. There also was evidence regarding respondent's mental health, including a psychiatric report from Dr. Norman Miller, who concluded that respondent was a paranoid schizophrenic, was dangerous, and was actively psychotic.

The trial court ultimately found clear and convincing evidence to terminate respondent's parental rights under MCL 712A.19b(3)(g) (failure to provide proper care or custody) and (j) (reasonable likelihood of harm). The court also found that termination was in the child's best interest. The trial court stated that the evidence, including reports from a psychologist and a psychiatrist, established that respondent had significant mental health issues that rendered her incapable of parenting the child. The trial court also recognized testimony that respondent failed to benefit from the services offered.

Thereafter, respondent participated in an assessment with Community Mental Health (CMH) in an effort to strengthen her appeal. The CMH clinician characterized respondent not as someone who was seeking services, but someone who was seeking "justice." The assessment concluded that the diagnosis of paranoid schizophrenia was unsupported by evidence, and that the method by which the psychiatrist concluded that respondent was psychotic was unclear. Respondent now appeals.

II. REASONABLE EFFORTS

A. Standard of Review

The trial court's factual findings in a termination proceeding are reviewed for clear error. *In re Frey*, 297 Mich App 242, 244; 824 NW2d 569 (2012). "A finding is clearly erroneous if, although there is evidence to support it, this Court is left with a definite and firm conviction that a mistake has been made." *In re Jenks*, 281 Mich App 514, 517; 760 NW2d 297 (2008).

B. Analysis

Respondent's sole issue on appeal is that petitioner failed to comply with MCL 712A.19a(2), to make reasonable reunification efforts. Generally, petitioner has a statutory obligation to make reasonable efforts to reunify the child with his or her family. MCL 712A.19a(2). "[W]hen a child is removed from the parents' custody, the petitioner is required to make reasonable efforts to rectify the conditions that caused the child's removal by adopting a service plan." *In re Fried*, 266 Mich App 535, 542; 702 NW2d 192 (2005). "Services are not mandated in all situations, but the statute requires the agency to justify the decision not to provide services." *In re Plump*, 294 Mich App 270, 272; 817 NW2d 119 (2011).

Here, petitioner made reasonable efforts to reunify respondent and the child. Petitioner offered respondent a number of services aimed at resolving the issues that led to the removal. Respondent participated in these services, including a psychological evaluation, parenting classes, an anger management program, a substance abuse assessment and testing, counseling, Narcotics Anonymous, supervised parenting time, and a psychiatric evaluation. Despite all of these services aimed at rehabilitating respondent so that she could achieve reunification, respondent argues that she should have been given more time to complete the clinical assessment

at CMH. Yet, testimony at the disposition hearing indicated that respondent did not obtain the CMH assessment before the disposition because she failed to bring her psychiatric evaluation with her to CMH.

As we have previously recognized, while petitioner has an obligation to offer respondent services, "there exists a commensurate responsibility on the part of" respondent to participate in the services and sufficiently benefit. *In re Frey*, 297 Mich App at 248. Respondent had an opportunity to visit CMH before her parental rights were terminated, but she failed to do so. At a minimum, she could have requested a continuation of the proceedings to give her more time to complete the CMH assessment if she felt it was critical. Furthermore, even if we were to consider the evidence respondent now attempts to supplement the record with,[2] we find that the trial court's ruling was not in error. Thus, respondent has not established grounds for reversal based on MCL 712A.19a(2).

III. CONCLUSION

Petitioner made reasonable efforts at reunification consistent with its statutory obligation under MCL 712A.19a(2). We affirm.

/s/ Patrick M. Meter
/s/ Deborah A. Servitto
/s/ Michael J. Riordan

[2] "This Court's review is limited to the record established by the trial court, and a party may not expand the record on appeal." *In re Rudell Estate*, 286 Mich App 391, 405; 780 NW2d 884 (2009) (quotation marks and citation omitted).